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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/747,537

12/22/2000

Robert A. Migliorini

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05/05/2003

EXXONMOBIL CHEMICAL COMPANY

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EXAMINER

KRUER, KEVIN R

ART UNIT

PAPER NUMBER

1773

DATE MAILED: 05/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application N . 09/747,537	Applicant(s) MIGLIORINI ET AL.	
	Examiner Kevin R Kruer	Art Unit 1773	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☒ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attached.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: NONE.

Claim(s) objected to: NONE.

Claim(s) rejected: 1-7 and 9-31.

Claim(s) withdrawn from consideration: NONE.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: see attached

Advisory Action

Applicant's proposed amendments filed April 23, 2003 have been fully considered, but are not persuasive. For the purposes of appeal, the proposed amendments will not be entered because they raise new issues that would require further consideration and/or search, they raise the issue of new matter, and they would not place the Application in better condition for allowance and/or appeal by materially reducing and/or simplifying the issues on appeal. Specifically, a film that is shrinkable in both directions has not been previously considered.

Furthermore, proposed claims 34 and 36 contain new matter. There is no support for the data points 17.7%, and 31%, respectively. The examiner disagrees with Applicant's interpretation of the data on page 11 of the specification. For example, film that shrinks 7% in one direction, and 10.7% in another direction does not exhibit 17.7% shrink. Rather the film exhibits 23.5% shrink. The examiner reaches this percentage by calculating the area of the film before shrinkage, the area of the film after shrinkage, and figuring out the resulting percent change in film area.

With respect to the rejection based upon Dries, Applicant argues that the rejection has been overcome by amendment. However, since the rejections will not be entered for the reasons given above, the rejection stands.

Applicant further argues that the method claims, claims 19-28 and 30, are not anticipated by Dries because Dries teaches that the MD stretching temperature should be less than 140°C, whereas the claims state the stretching temperature is 105°C or

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less. The examiner respectfully disagrees. Since the claimed ranges overlap, the method claims are anticipated by Dries.

With respect to the rejection of claims 1-11, 13-22, and 29-31 under 35 U.S.C. 103(a), Applicant argues that it is not obvious to combine Bossaert with Blemberg in the manner suggested by the Office, because there is no suggestion in Bossaert that there is a problem with the core layer sticking to an adjacent coextruded layer. The examiner respectfully disagrees with Applicant. The primary reference does not have to suggest a claimed modification. Rather, the art as a whole must motivate one of ordinary skill in the art to make the proposed modification. In the present situation, Blemberg teaches that interlayer adhesion is improved by making the proposed modification. Thus, the examiner maintains the position that the applied art, taken as a whole, would have suggested the proposed modification to one of ordinary skill in the art.

Applicant further argues that neither Bossaert nor Blemberg teaches a film with the shrinkage claimed in claim 31. The examiner agrees that neither reference explicitly teaches the claimed shrinkage, but maintains the position that the film render obvious by Bossaert in view of Blemberg necessarily has the claimed shrinkage because it comprises the same layers, with the same compositions, and the same degree of orientation as the claimed film.

The examiner agrees with Applicant's observation that the remarks on page 5 should not refer to Peet. The comments were meant to refer to "the film taught by Bossaert in view of Blemberg." The examiner apologizes for any confusion the oversight may have caused.

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With respect to the rejection based on the teachings of Schuhmann, Applicant argues that it is not obvious to combine Schuhmann with Blemberg in the manner suggested by the Office, because there is no suggestion in Schuhmann that there is a problem with the core layer sticking to an adjacent coextruded layer. The examiner respectfully disagrees with Applicant. The primary reference does not have to suggest a claimed modification. Rather, the art as a whole must motivate one of ordinary skill in the art to make the proposed modification. In the present situation, Blemberg teaches that interlayer adhesion is improved by making the proposed modification. Thus, the examiner maintains the position that the applied art, taken as a whole, would have suggested the proposed modification to one of ordinary skill in the art.

The examiner agrees with Applicant's assessment that claims 27 and 28 are distinguished from Schuhmann. However, Schuhmann was never applied to either claim.

Applicant objects to the combination of Keller in view of Peiffer because Peiffer teaches that the addition of hydrocarbon to isotactic polypropylene makes the composition brittle and brittleness is not desired in the labeling films taught in Keller. However, Peiffer also teaches that the addition of the hydrocarbon improves the modulus of elasticity and tear resistance. Thus, one of ordinary skill in the art would have known how to alter the amount of hydrocarbon added to the isotactic polypropylene to obtain the desired results.

Applicant argues that the claimed films are biaxially oriented. Keller teaches such a film. Applicant argues that the claimed films are also shrinkable in both

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directions. However, said limitation is not currently claimed. Applicant further argues that neither reference teaches orienting at a temperature of 105°C or less. The examiner respectfully disagrees. Keller teaches the orientation temperature may be as low as 100°C (col 9, lines 10+). Thus, the range taught in Keller overlaps the claimed range.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin R Kruer whose telephone number is 703-305-0025. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Thibodeau can be reached on 703-308-2367. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-5408 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

K-RK

krk

May 2, 2003

Paul Thibodeau

Paul Thibodeau

Supervisory Patent Examiner
Technology Center 1700